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New York Leads the Way on Partner Notification Law, Why Won't Kennedy Follow?

Kennedy Managed Care Bill Ought to Incorporate an AIDS Disclosure Provision in a "New York Minute"

The New York State Legislature recently passed by large majorities in both chambers a bill designed to assure the notification of the contacts of AIDS-infected individuals (sexual partners and needle sharers). For those at-risk persons, this notification (and the providing of information about where to get assistance and counseling) could literally mean the difference between life and death. However, as critical as the disclosure of such information is, it is *not* included in Senator Kennedy's so-called patients' rights bill, S.1890, which the Minority Leader this week offered as an amendment to the VA-HUD appropriations bill.

This glaring omission in the Kennedy-Daschle healthcare legislation is compounded by the sponsors' own rhetoric: they purport (inaccurately) to be advancing legislation that embodies the recommendations made by the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry — the so-called Quality Commission. Said Senator Kennedy on the Senate floor last month: "The President last year called forth a commission, which made unanimous recommendations — Republican and Democrat alike. The Patients' Bill of Rights legislation (S.1890) . . . basically reflects the judgment put forward by that bipartisan group. . ." Yet, the Kennedy-Daschle bill contains *neither* the concept of consumer responsibility (as does the Quality Commission) *nor* any procedure for informing AIDS-infected individuals' contacts.

The Quality Commission in its report to the President last year devoted an entire chapter to consumer responsibilities. The Commission stated:

"In a health care system that protects consumers' rights, it is reasonable to expect and encourage consumers to assume reasonable responsibilities. Greater individual involvement by consumers in their care increases the likelihood of achieving the best outcomes and helps support a quality improvement, cost-conscious environment. Such responsibilities include . . .

- "Work collaboratively with health care providers in developing and carrying out agreed-upon treatment plans.
- "Disclose relevant information and clearly communicate wants and needs.
- "Avoid knowingly spreading disease.
- "Be aware of a health care provider's obligation to be reasonably efficient and equitable in providing care to other patients and the community.
- "Show respect for other patients and health workers."

[The information quoted is all taken verbatim from the Nov. 1997 report, but some bullet-points have been omitted.]

All of these points made by the Quality Commission speak to the principle of informing sexual partners and other contacts of infected individuals that they have been exposed to the deadly virus. Yet neither the principle of consumer responsibility in general nor the specific one of informing exposed persons is included in the Kennedy bill.

As already pointed out in a previous RPC paper ["The Kennedy-Daschle Bill: Healthcare Reform in Reverse," 7/8/98], S. 1890 is a case of false advertising: it does not embody the Quality Commission's recommendations as it claims, but rather it turns recommendations into mandates, adds provisions not even addressed by the Commission (such as increased litigation, including the right to sue employers), and extends Commission recommendations beyond their original scope.

Yet, if Senators Kennedy and Daschle want to legislate the Quality Commission's recommendations, why don't they incorporate that overlooked chapter of the Quality Commission's recommendations on patient responsibilities? Why don't they include this critical life-or-death disclosure provision — AIDS contact tracing — an area where patient information is so critical that government action clearly is required?

The Kennedy-Daschle bill:

- ▶ Ignores the principle of consumer responsibility and the specific issue of informing contacts of AIDS-infected individuals.
- ▶ Ignores America's primary health care issue — access — and instead will decrease it through costly mandates, litigation, and bureaucracy;
- ▶ Ignores the fact that the Quality Commission did not recommend the mandating of its recommendations;
- ▶ Adds proposals that the Quality Commission never envisioned; and
- ▶ Expands proposals beyond the scope of the Quality Commission's recommendations.

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